

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

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| <b>In the Matter of:</b>               | )  |
|  | )  |
| <b>City of Vermilion, Ohio</b>         | ) <b>Administrative Order on Consent</b>         |
|  | ) <b>Under Section 309(a) of the Clean Water</b> |
| <i>For the City of Vermilion WPCF,</i> | ) <b>Act, 33 U.S.C. § 1319(a)</b>                |
| <i>NPDES Permit No. OH0023612</i>      | )  |
|  | )  |
| <b>Respondent.</b>                     |  |

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**I. INTRODUCTION**

1. The U.S. Environmental Protection Agency (“EPA”) makes the findings of fact set forth below (Section IV) and is issuing this Administrative Order on Consent (“Order on Consent” or “Order”) to the City of Vermilion, Ohio (“Respondent”) under the authority of Section 309(a) of the Clean Water Act (“CWA” or “Act”), 33 U.S.C. § 1319(a). The Administrator of EPA has delegated the authority to issue such orders to the Regional Administrator of EPA Region 5, who has redelegated this authority to the Director of the Enforcement and Compliance Assurance Division, EPA, Region 5.
2. This Order is mutually entered into by EPA and Respondent.
3. At all times relevant to this Order, Respondent has owned and operated the City of Vermilion Water Pollution Control Facility (“WPCF”), located at 799 West River Road, Vermilion, Ohio (the “Facility”).
4. EPA alleges that Respondent failed to comply with National Pollutant Discharge Elimination System (“NPDES”) Permit No. OH0023612 at the City of Vermilion WPCF, in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a). EPA also alleges that Respondent violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a), by discharging a pollutant or pollutants into the navigable waters from a point source without a permit to do so.
5. By entering into this Order, Respondent: (1) consents to EPA’s authority to issue this Order; (2) neither admits nor denies the factual allegations as set forth in this Order; (3) agrees to undertake all actions required by the terms and conditions of this Order; and (4) agrees not to contest the authority of EPA to issue this Order or the validity of any terms or conditions in this Order.
6. For the purposes of this Order only, Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Order on Consent,

including, but not limited to, any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

## **II. STATUTORY AUTHORITY**

7. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except, *inter alia*, in compliance with an NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
8. Section 402 of the CWA, 33 U.S.C. § 1342, authorizes states to request approval from EPA to administer their own permit programs for discharges into navigable waters within their jurisdictions.
9. Pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, the State of Ohio requested approval from EPA to administer its own permit program for discharges into navigable waters within Ohio. EPA granted the State's request on March 11, 1974. 39 Fed. Reg. 26,061 (July 16, 1974). Therefore, pursuant to the State's permit program, the Ohio Environmental Protection Agency ("Ohio EPA") has issued Ohio EPA NPDES permits. Violation of an NPDES permit is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).
10. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), provides that whenever EPA finds that any person is in violation of requirements of, *inter alia*, Sections 301 or 402 of the CWA, 33 U.S.C. §§ 1311, 1318, 1342, or is in violation of any condition or limitation that implements those sections in an NPDES permit, EPA shall issue an order requiring such person to comply with such requirements, conditions, or limitations. Section 309(a)(5) of the CWA, 33 U.S.C. § 1319(a)(5), requires that any such order shall specify a time for compliance that EPA determines to be reasonable taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

## **III. DEFINITIONS**

11. All terms used, but not defined, in this Order have the meanings provided to them in the CWA, 33 U.S.C. § 1251 *et seq.*, and the effective EPA regulations promulgated under the CWA.
12. "Act" or "CWA" means the Clean Water Act, 33 U.S.C. §§ 1251–1388.
13. "Bypass" means the intentional diversion of a waste stream from any portion of a treatment facility.
14. "Day" or "days" means a calendar day or calendar days unless expressly stated to be a business day. When computing any period of time under this Order, should the last day fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next business day.

15. “Discharge of a pollutant,” as defined in Section 502(12) of the CWA, means *inter alia*, “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).
16. “Effective Date” has the definition provided in Section VIII of this Order.
17. “EPA” means the United States Environmental Protection Agency.
18. “Facility” means the City of Vermilion Water Pollution Control Facility, also known as the City of Vermilion WPCF, located at 799 West River Road, Vermilion, Ohio.
19. “Infiltration and inflow” or “I/I” means the total quantity of water from both infiltration and inflow without distinguishing the source.
20. “Infiltration” means the water entering a sewer system and service connections from the ground, through such means as, but not limited to: defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.
21. “Inflow” means the water discharged into a sewer system, including service connections, from such sources as, but not limited to: roof leaders; cellar, yard and area drains; foundation drains; cooling water discharges; drains from springs and swampy areas; manhole covers; cross connections from storm sewers and combined sewers; catch basins; storm waters; surface run-off; street wash waters or drainage. Inflow does not include, and is distinguished from, infiltration.
22. “MGD” means millions of gallons per day.
23. “Navigable waters,” as defined in Section 502(7) of the CWA, means “the waters of the United States, including the territorial seas.” 33 U.S.C. § 1362(7). In turn, “waters of the United States,” as defined in 40 C.F.R. § 120.2 (2020), includes waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, and tributaries to such waters.
24. “NPDES Permit” and “Permit” mean the permit issued in accordance with the National Pollutant Discharge Elimination System (NPDES) pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. In this Order, these terms mean NPDES Permit No. OH0023612 (Ohio EPA Permit No. 2PD00032\*MD), issued by the State of Ohio to Respondent for the City of Vermilion WPCF with the effective date of December 1, 2016, and the expiration date of November 30, 2021. For purposes of Sections IV through IX of this Order, “Permit” also means any subsequent NPDES permit issued by the State of Ohio to Respondent for the City of Vermilion WPCF, until such time as this Order is terminated.

25. “Order on Consent” and “Order” means this document, all attachments hereto, and all subsequent modifications thereto, including incorporated submissions from Respondent, as described in paragraph 74.
26. “Outfall” means a type of “point source,” as that term is defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14), that serves as a discharge point from the Facility. “Outfall” followed by an Arabic numeral means that Outfall assigned that number in Respondent’s NPDES permit.
27. “Paragraph” means a portion of this Order identified by an Arabic numeral.
28. “Parties” means the EPA and Respondent.
29. “Person,” as defined in Section 502(5) of the CWA, means an “individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.” 33 U.S.C. § 1362(5).
30. “Point source,” as defined in Section 502(14) of the CWA, means “any discernible, confined and discrete conveyance . . . from which pollutants are or may be discharged.” 33 U.S.C. § 1362(14).
31. “Pollutant,” as defined in Section 502(6) of the CWA, means “dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. § 1362(6).
32. “Publicly Owned Treatment Works” or “POTW” means a treatment works, as defined in Section 212 of the CWA, 33 U.S.C. § 1292(2), that is owned by a State, Tribe, or a municipality (as defined in Section 502(4) of the CWA, 33 U.S.C. § 1362(4)). Pursuant to 40 C.F.R. § 403.3(q), the definition of POTWs includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in Section 502(4) of the CWA, 33 U.S.C. § 1362(4), that has jurisdiction over indirect and direct discharges to such a treatment works.
33. “Respondent” means the City of Vermilion, the owner of the City of Vermilion WPCF, a POTW.
34. “Sanitary sewer overflow” or “SSO” is an overflow, spill, release, or diversion of wastewater from a sanitary sewer system.
35. “State” means the State of Ohio.

36. “Ohio EPA” means the Ohio Environmental Protection Agency and any successor departments, agencies, or instrumentalities of the State.
37. “Wastewater Treatment Plant” or “WWTP” means the Wastewater Treatment Plant identified in the NPDES permit issued to the City of Vermilion WPCF and located at 799 West River Road, Vermilion, Ohio.
38. “Work” means any and all activities Respondent is required to undertake and accomplish to achieve compliance under this Order.

#### **IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

39. The City of Vermilion is a municipality chartered under the laws of the State of Ohio, and, as such, is a “municipality” and a “person” as those terms are defined in Sections 502(4) and (5) of the CWA, 33 U.S.C. §§ 1362(4),(5), and 40 C.F.R. § 122.2.
40. At all times relevant to this Order, Respondent owned and operated the City of Vermilion WPCF, located in Vermilion, Ohio (“Facility”).
41. At all times relevant to this Order, Outfall No. 001 discharged pollutants including total suspended solids (“TSS”), oil and grease, nitrogen-ammonia (NH<sub>3</sub>), total phosphorus, chlorine, cyanide, *E.coli*, and mercury into the Vermilion River.
42. At the specific times relevant to this Order noted in Appendix B, Respondent reported in certified Discharge Monitoring Reports (“DMRs”) SSO discharges into the Vermilion River and Lake Erie from constructed overflow outfalls, lift stations, manholes, and storm sewer outfalls (Permit Monitoring Stations 300-310).
43. Outfall No. 001 at the City of Vermilion WPCF, and conveyances including constructed overflow outfalls, lift stations, manholes, and storm sewer outfalls described in paragraph 42 are each a “point source,” as that term is defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14).
44. The substances TSS, oil and grease, nitrogen-ammonia (NH<sub>3</sub>), total phosphorus, chlorine, cyanide, *E.coli*, and mercury are “pollutants,” as that term is defined in Section 502(6) of the CWA, 33 U.S.C. § 1362(6).
45. The discharges described in paragraphs 41 and 42 are “discharges of a pollutant,” as that term is defined in Section 502(12) of the CWA, 33 U.S.C. § 1362(12).
46. The Vermilion River and Lake Erie are “navigable waters” within the meaning of Section 502 of the CWA, 33 U.S.C. § 1362(7), and “waters of the United States” within the meaning of 40 C.F.R. § 120.2 (1993, 2020).

47. At all times relevant to this Order, the conveyances at the Facility acted as point sources of “discharges” of “pollutants” with its final wastewater discharge to the Vermilion River.
48. At the specific times relevant to this Order noted in Appendix B, Respondent’s constructed overflow outfalls, lift stations, manholes, and storm sewer outfalls acted as point sources of SSOs, or “discharges” of “pollutants” to the Vermilion River and Lake Erie.
49. Because Respondent owned or operated a facility with an outfall and conveyances that acted as point sources for the discharge of pollutants to navigable waters, Respondent and the Facility have been subject to the CWA at all times relevant to this Order. Thus, any such discharge has been and is subject to the specific terms and conditions prescribed in the applicable permit and the CWA.
50. Respondent applied for and was issued NPDES Permit No. OH0023612 (“Permit”) under Section 402 of the CWA, 33 U.S.C. § 1342. Respondent’s Permit became effective on December 1, 2016. At all times relevant to this Order, Respondent was authorized to discharge pollutants from the Facility to navigable waters only in compliance with the specific terms and conditions of the Permit. At all times relevant to this Order, Respondent’s Permit did not authorize the discharge of pollutants resulting from SSOs—which Respondent nevertheless allowed to occur as reported by Respondent for Permit Monitoring Stations No. 300-310, identified above—into the Vermilion River or Lake Erie.
51. The Permit includes “Final Effluent Limitations and Monitoring Requirements” that require Respondent to sample and test its effluent and to monitor its compliance with Permit conditions and applicable regulations, according to specific procedures, and places certain limitations on the quality and quantity of effluent discharged by Respondent. The Permit also requires Respondent to file certified DMRs of the results of monitoring and Noncompliance Reports with Ohio EPA as appropriate. The relevant discharge limitations and monitoring requirements are specified in the Permit Part I.A. for Outfall No. 001, and Part I.B. for Permit Monitoring Stations No. 300-310 (SSO monitoring) which are incorporated herein by reference.
52. Part I. B.1. of the Permit states that all SSOs are prohibited and requires Respondent to report all SSOs that enter waters of the state, either directly or through a storm sewer or other conveyance. Lake Erie and the Vermilion River are waters of the state.
53. Part III.3.A. of the Permit requires “[a]t all times, the permittee shall maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee necessary to achieve compliance with the terms and conditions of this permit.”
54. Certified DMRs filed by Respondent with Ohio EPA, as required by the Permit, show discharges of pollutants from the Facility that exceed the permitted effluent limitations established in the Permit, as specified in Permit Part I.A., which is incorporated herein by

reference, on 46 occasions from August 31, 2016 to May 31, 2021, as summarized in Attachment A to this Order.

55. Certified DMRs, and annual and 5-Day follow-up SSO reports filed by Respondent with Ohio EPA, as required by the Permit, show the Respondent violated Part I.B.1 of the Permit by allowing SSOs on 70 occasions between February 14, 2017 and July 17, 2021, as summarized in Attachment B to this Order.
56. On July 14-15, 2021, EPA conducted an inspection at the Facility to assess Respondent's compliance with its Permit. The inspection identified deficiencies related to self-monitoring, reporting, laboratory analytical methods, and the operation and maintenance ("O&M") of the Facility. From a visual inspection of the Facility and review of DMRs and other records, EPA made the following observations:
  - A. The 2020 Annual Mercury Pollutant Minimization Program ("PMP") report required pursuant to the permit was submitted by the March 1, 2021 deadline. However, the copy of the report provided was missing required information such as a list of potential mercury sources (Permit Part II.U.1.g.ii.) and a summary of efforts to reduce mercury (Permit Part II.U.1.g.iii.).
  - B. Storm Water Pollution Prevention Plan ("SWPPP"): Facility representatives were unable to provide the Facility's SWPPP, required to be prepared within six months of the effective date of the permit (Part V.A.1.), upon request. On July 21, 2021, a Facility representative provided an update on the SWPPP status, explaining that it is currently being developed by a contract engineering firm.
  - C. O&M: The permit provides that "[a]t all times, the permittee shall maintain in good working order and operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee necessary to achieve compliance with the terms and conditions of this permit." (Part III.3.A) EPA made the following O&M observations:
    - a. Effluent limit exceedances in October 2020, including TSS, nitrogen-ammonia total (as N), and *E. coli*; and TSS exceedances in February 2021 were attributed to air lift issues and insufficient air to support aeration;
    - b. According to the Facility Superintendent, I/I is the biggest issue leading to compliance issues with average daily flows of approximately 1 MGD and peak daily flows of up to 6.5 MGD;
    - c. Clear river water was infiltrating into the Facility basement and pumped to the primary clarifiers, adding to the amount of non-sanitary flow being treated at the Facility; and
    - d. The Facility was operating without Clarifier #6 and the grit removal unit. Clarifier #6 was offline due to rotted rails.
57. Respondent is a person who discharged pollutants from point sources into navigable waters, in violation of its Permit. Accordingly, each instance in which Respondent discharged pollutants to navigable waters in amounts exceeding the effluent limitations contained in the

Permit is a violation of the Permit and Section 301 of the CWA, 33 U.S.C. § 1311. Each violation of the conditions of the Permit or regulations described above is a violation of Section 301 of the CWA, 33 U.S.C. § 1311.

## **V. ORDER ON CONSENT**

58. Based on the foregoing findings and the authority vested in the undersigned Director, Enforcement and Compliance Assurance Division, it is hereby ordered and agreed to in accordance with Section 309(a) of the CWA, 33 U.S.C. § 1319(a), that Respondent comply with the following actions:

- A. Addressing Effluent Limit Violations, SSOs, and long-term O&M issues: Respondent must undertake the following actions to address the causes of effluent limitation violations summarized in Attachment A, eliminate SSOs, and address the long-term O&M issues described in paragraph 56.C.a-c, by December 31, 2026:
  - a. Respondent must conduct a comprehensive analysis of all feasible alternatives necessary to address effluent limit violations at the Facility, eliminate overflows in the collection system, and address the O&M issues described in paragraph 56.C.a-c. By September 1, 2022, Respondent must submit a wastewater master plan for the Facility addressing and evaluating the following:
    - i. Inflow/infiltration reduction within the collection system, based on existing studies and supplemented with additional studies as needed;
    - ii. Additional wastewater storage and flow equalization;
    - iii. Additional secondary treatment capacity which includes an analysis of constructing additional secondary capacity as well as an analysis of process changes to enhance secondary treatment capacity;
    - iv. Evaluate methods that will enhance the treatment of any bypassed flow;
    - v. Address the O&M issues described in paragraph 56.C.a-c;
    - vi. Compare costs and feasibility of constructing a new wastewater treatment facility against costs of upgrading treatment and capacity at the current Facility location;
    - vii. Respondent must provide the costs associated with each of the alternatives considered in the feasible alternatives analysis; and
    - viii. Respondent must provide a proposed schedule for implementation of the recommended improvements (if required) in the collection system and/or the treatment plant, or construction of a new wastewater treatment facility.
  - b. Pursuant to the procedure established in Section VI of this Order, EPA will approve, approve with comments, or disapprove the feasible alternatives analysis. If EPA, in consultation with Ohio EPA, determines that any part of the feasible alternatives analysis is unacceptable, EPA will notify Respondent. In that instance, Respondent must then revise the feasible alternatives analysis, incorporating EPA's comments, within 30 days of the date of the notification from EPA.
  - c. Respondent shall implement the EPA-approved alternative in accordance with the approved schedule and milestones and address the causes of effluent limitation



violations summarized in Attachment A, eliminate SSOs, and address O&M issues described in paragraph 56.C.a-c by December 31, 2026.

- B. Addressing short-term O&M Issues: Respondent must complete rail repairs on Clarifier #6 by December 31, 2021, addressing the short-term O&M issues described in paragraph 56.C.d.

## **VI. DOCUMENTATION AND SUBMISSIONS**

59. Respondent must submit a status report to EPA within 30 days of the end of each calendar-year quarter (i.e., by January 31, April 30, July 31, and October 31), until this Order is terminated. The first status report will be due within 30 days of completion of the first full quarter after the effective date of this Order. Each status report must include: (a) a description of the actions that have been taken toward achieving compliance with this Order during the previous quarter including an assessment of the milestones due, whether they were met, and, if not, what actions taken or planned to meet the milestones, the timeline for meeting those milestones, and any impact on future milestones; (b) an assessment of the effectiveness of such actions in preventing effluent violations; (c) a summary of all effluent violations that occurred during the previous quarter; and (d) an analysis of the cause of each such effluent violation.
60. Respondent must include EPA as a courtesy copy recipient on all SSO reports submitted to Ohio EPA pursuant to Permit Part II, D.1.b, Part II, D.2.a., and Part II, D.2.b..
61. All reports, notifications, documentation, submissions, and other correspondence required to be submitted by this Order must be submitted to EPA electronically, to the extent possible. If electronic submittal is not possible, the submissions must be made by certified mail (return receipt requested) with an email notification to all addresses provided below notifying them that a submission is being made by certified mail. Electronic submissions must be sent to the following addresses: r5weca@epa.gov, maraldo.dean@epa.gov, futerman.andrew@epa.gov, and justin.williams@epa.ohio.gov. The subject line of all email correspondence must include the Facility name, NPDES ID #OH0023612, and the subject of the deliverable. All electronically-submitted materials must be in final and searchable format, such as Portable Document Format (PDF) with Optical Character Recognition (OCR) applied. Any information containing confidential business information must be submitted and asserted as set forth at 40 C.F.R. Part 2 Subpart B and must be submitted by email to maraldo.dean@epa.gov and futerman.andrew@epa.gov or by mail (see below) but not to the r5weca@epa.gov and justin.williams@epa.ohio.gov addresses. Mailed submissions must be sent to the following addresses:

Attn: Dean Maraldo, EPA Case Manager  
Water Enforcement & Compliance Assurance Branch (ECW-15J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard

Chicago, Illinois 60604-3590

Attn: Andrew Futerman  
Office of Regional Counsel (C-14J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

Courtesy copy to:  
Attn: Justin A. Williams  
Ohio EPA – Northwest District Office  
347 N. Dunbridge Road  
Bowling Green, OH 43402

62. Within 10 days of the effective date of this Order, Respondent must designate a Project Coordinator and provide EPA's Case Manager (above) with the Project Coordinator's name, address, phone number, and email address.
63. In the event of a change to either the EPA Case Manager or the Project Coordinator, Respondent/parties must provide notification in writing, pursuant to paragraphs 61 and 62 above, within 30 days after the change.
64. EPA may require additional status reports, or fewer status reports, for the purpose of documenting the progress of the Work performed pursuant to this Order or compliance with the Permit requirements. Should EPA require additional status reports, EPA will provide Respondent with at least 15 days from the date of EPA's request to submit the reports.
65. All reports, notifications, documentation, and submissions required by this Order must be signed by a duly authorized representative of Respondent as specified by 40 C.F.R. § 122.22(b) and (d) and must include the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
66. Respondent may not withhold information based on a claim that it is confidential. However, pursuant to 40 C.F.R. Part 2, Subpart B, Respondent may assert a claim of business confidentiality regarding any portion of the information submitted in response to this Order. The manner of asserting such claims is specified in 40 C.F.R. § 2.203(b). Certain information

related to effluent data (as defined in 40 C.F.R. § 2.302(a)(2)) and NPDES permit applications may not be entitled to confidential treatment. 40 C.F.R. § 122.7. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If Respondent does not assert a claim of business confidentiality when it submits the information, EPA may make the information available to the public without further notice. 40 C.F.R. § 2.203(c).

67. If Respondent finds at any time after submitting information that any portion of that information is false or incorrect, the signatory must notify EPA immediately. Knowingly submitting false information to EPA may subject Respondent to criminal prosecution under Section 309(c) of the CWA, 33 U.S.C. § 1319(c), as well as 18 U.S.C. § 1001 and 1341.
68. Submissions required by this Order must be deemed submitted on the date they are sent electronically or on the date postmarked if sent by U.S. mail.
69. After review of the submissions required pursuant to paragraphs 58, 59, 64, and 88 of this Order, EPA may approve or disapprove the submissions, in whole or in part. EPA shall approve the submissions or any portion so long as the submissions fulfill the requirements under this Order.
70. If EPA disapproves the submission(s), EPA will notify Respondent in writing, which may include notice by email, and EPA may require Respondent to supplement or modify its submission(s). Within 30 days following receipt of written notice of EPA's disapproval, Respondent must submit a corrected submission to EPA for approval. In the event that Respondent's modified submission is disapproved in whole or in part by EPA, EPA may require Respondent to correct the deficiencies or EPA may determine that the submission fails to meet the requirements of this Order.
71. Respondent may object in writing to the notice of disapproval within 10 days of receiving the notice, and the parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on the objection, which may require Respondent to correct, modify, or supplement its submission(s). If Respondent fails to undertake these corrections as required by EPA, EPA may determine that the submissions fail to meet the requirements of this Order.
72. Notwithstanding the receipt of a notice of disapproval pursuant to paragraph 70, above, Respondent must proceed to take all actions and provide all submissions required under this Order, including any actions required under any non-deficient portion(s) of its submission, if such action can be undertaken independent of the deficient portion of Respondent's submission.
73. Absent an extension of time granted in writing by EPA, EPA may determine that late submissions fail to meet the requirements of this Order.

74. Upon EPA approval, submissions by Respondent are incorporated and enforceable as part of this Order. In case of inconsistency between any submission by Respondent and this document and its subsequent modifications, this document and its subsequent modifications shall control.
75. EPA, or its enforcement partners, may use any information submitted in response to this Order in support of an administrative, civil, or criminal action against Respondent.
76. The information required to be submitted pursuant to this Order is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

## **VII. GENERAL PROVISIONS**

77. Respondent has had the opportunity to confer with and submit information to EPA concerning the validity and provisions of this Order.
78. The terms of this Order are binding on Respondent and its assignees and successors. Respondent must give notice of this Order to any successors in interest prior to transferring ownership, and must simultaneously verify to EPA, at the address specified in paragraph 61, that Respondent has given the notice.
79. The undersigned signatory for each party has the authority to bind each respective party to the terms and conditions of this Order.
80. Failure to comply with this Order may subject Respondent to penalties up to \$56,460 per day for each violation (or as penalty levels may be later adjusted at 40 C.F.R. Part 19) pursuant to Section 309(d) of the CWA, 33 U.S.C. § 1319(d), and 40 C.F.R. Part 19.
81. This Order does not affect Respondent's responsibility to comply with the CWA, its Permit(s), and any other local, state, and federal laws, regulations, or permits.
82. This Order does not restrict EPA's authority to enforce the Permit or any section of the CWA or its implementing regulations.
83. EPA reserves all rights and remedies, legal and equitable, available to address any violation cited in this Order and any other violation of the CWA or of this Order. Neither issuance of this Order by EPA nor compliance with its terms precludes further enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited in this Order, for any other violations of the CWA or of this Order committed by Respondent.
84. The CWA includes provisions for administrative penalties, for civil injunctive relief and penalties, and for criminal penalties for violations of the CWA. Specifically, EPA may:

- A. assess civil administrative penalties under 33 U.S.C. § 1319(g) and 40 C.F.R. Part 19 of up to \$22,584 per day of violation for violations of the CWA that occurred after November 2, 2015 and for which penalties are assessed on or after December 23, 2020, for up to a total of \$282,293, or other amounts as penalty levels may be later adjusted at 40 C.F.R. Part 19;
  - B. seek civil injunctive relief and penalties for violations of the CWA under 33 U.S.C. § 1319(b) and civil judicial penalties for violations of this Order under 33 U.S.C. § 1319(d). In accordance with 40 C.F.R. Part 19, EPA may seek civil judicial penalties of up to \$56,460 per day of violation for violations that occurred after November 2, 2015 and for which penalties are assessed on or after December 23, 2020, or as penalty levels may be later adjusted at 40 C.F.R. Part 19; and
  - C. seek criminal penalties, including fines and imprisonment, for negligent or knowing violations of the CWA under 33 U.S.C. § 1319(c).
85. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of work described in paragraph 58 is restitution, remediation, or required to come into compliance with the law.

#### **VIII. EFFECTIVE DATE**


86. This Order shall become effective upon signature by EPA below and will remain in effect until EPA has notified Respondent of termination of the Order pursuant to paragraphs 87 or 89.

#### **IX. FINAL REPORT AND TERMINATION OF THIS ORDER**

87. EPA may terminate this Order at any time by written notice to Respondent.
88. Absent the notice described in paragraph 87 and within 30 days after Respondent concludes that it has achieved compliance with all requirements of this Order, Respondent must submit to the EPA Case Manager a written final report and certification of completion describing all actions taken to comply with all requirements of this Order. Respondent must follow the procedures set forth at Section VI of this Order.
89. After receipt and review of Respondent's final report and certification of completion submitted pursuant to paragraph 88, EPA will notify Respondent whether it has satisfied all requirements of this Order under the procedures set forth at Section VI of this Order. If EPA concludes that Respondent has failed to satisfy the requirements of this Order, EPA may require further actions as set forth under this Order or it may pursue administrative or civil judicial actions.

IT IS SO AGREED AND ORDERED:

**FOR RESPONDENT, CITY OF VERMILION (FOR THE CITY OF VERMILION WPCF):**

  
Signature

11.23.21  
Date

Jim Forthofer  
Name

Mayor  
Title

**FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:**

\_\_\_\_\_  
Michael D. Harris  
Director  
Enforcement and Compliance Assurance Division  
U.S. EPA Region 5

\_\_\_\_\_  
Date

## ATTACHMENT A

### Effluent Limit Exceedances Report

OH0023612: CITY OF VERMILION WPCF, VERMILION, OH 44089-1324

Monitoring Period Date Range: 08/31/2016 to 05/31/2021

| Monitoring Period Date | Parameter Description          | Limit Type | DMR Value | DMR Value Unit | Limit Value | Limit Value Qualifier |
|------------------------|--------------------------------|------------|-----------|----------------|-------------|-----------------------|
| 8/31/2016              | Phosphorus, total (as P)       | MO AVG     | 1.2       | mg/L           | 1           | <=                    |
| 8/31/2016              | Chlorine, total residual       | DAILY MX   | 0.14      | mg/L           | 0.02        | <=                    |
| 10/31/2016             | pH, minimum                    | DAILY MN   | 6.36      | SU             | 6.5         | >=                    |
| 5/31/2017              | E. coli, MTEC-MF               | WK GEOMN   | 328       | MPN/100mL      | 284         | <=                    |
| 5/31/2017              | Chlorine, total residual       | DAILY MX   | 0.87      | mg/L           | 0.02        | <=                    |
| 7/31/2017              | E. coli, MTEC-MF               | WK GEOMN   |           | MPN/100mL      | 284         | <=                    |
| 7/31/2017              | E. coli, MTEC-MF               | MO GEOMN   |           | MPN/100mL      | 126         | <=                    |
| 8/31/2017              | Phosphorus, total (as P)       | MO AVG     | 1.08      | mg/L           | 1           | <=                    |
| 9/30/2017              | pH                             | DAILY MN   | 6.27      | SU             | 6.5         | >=                    |
| 2/28/2018              | Mercury, total low level       | MO AVG     | 3.48E-06  | mg/L           | 2.6E-06     | <=                    |
| 5/31/2018              | Chlorine, total residual       | DAILY MX   | 0.85      | mg/L           | 0.02        | <=                    |
| 8/31/2018              | pH                             | DAILY MN   | 5.79      | SU             | 6.5         | >=                    |
| 8/31/2018              | Chlorine, total residual       | DAILY MX   | 1.8       | mg/L           | 0.02        | <=                    |
| 9/30/2018              | Chlorine, total residual       | DAILY MX   | 0.56      | mg/L           | 0.02        | <=                    |
| 10/31/2018             | Chlorine, total residual       | DAILY MX   | 6.1       | mg/L           | 0.02        | <=                    |
| 2/28/2019              | Solids, total suspended        | WKLY MAX   | 437       | kg/d           | 426         | <=                    |
| 4/30/2019              | Copper, total recoverable      | DAILY MX   | 0.39      | mg/L           | 0.026       | <=                    |
| 4/30/2019              | Copper, total recoverable      | DAILY MX   | 1.93      | kg/d           | 0.247       | <=                    |
| 4/30/2019              | Copper, total recoverable      | MO AVG     | 0.39      | mg/L           | 0.016       | <=                    |
| 4/30/2019              | Copper, total recoverable      | MO AVG     | 1.93      | kg/d           | 0.152       | <=                    |
| 6/30/2019              | E. coli, MTEC-MF               | WK GEOMN   | 1084      | MPN/100mL      | 284         | <=                    |
| 7/31/2019              | Chlorine, total residual       | DAILY MX   | 0.07      | mg/L           | 0.02        | <=                    |
| 2/29/2020              | Solids, total suspended        | WKLY MAX   | 72        | mg/L           | 45          | <=                    |
| 2/29/2020              | Solids, total suspended        | WKLY MAX   | 746       | kg/d           | 426         | <=                    |
| 3/31/2020              | Solids, total suspended        | WKLY MAX   | 47.2      | mg/L           | 45          | <=                    |
| 5/31/2020              | E. coli, MTEC-MF               | MO GEOMN   |           | MPN/100mL      | 126         | <=                    |
| 5/31/2020              | E. coli, MTEC-MF               | WK GEOMN   |           | MPN/100mL      | 284         | <=                    |
| 7/31/2020              | Solids, total suspended        | MO AVG     | 69.98     | mg/L           | 30          | <=                    |
| 7/31/2020              | Solids, total suspended        | WKLY MAX   | 1611      | kg/d           | 426         | <=                    |
| 7/31/2020              | Solids, total suspended        | MO AVG     | 414.7     | kg/d           | 284         | <=                    |
| 7/31/2020              | Solids, total suspended        | WKLY MAX   | 267.2     | mg/L           | 45          | <=                    |
| 7/31/2020              | Nitrogen, ammonia total (as N) | MO AVG     | 5.9       | mg/L           | 5.8         | <=                    |
| 7/31/2020              | Nitrogen, ammonia total (as N) | WKLY MAX   | 15        | mg/L           | 8.7         | <=                    |
| 7/31/2020              | Nitrogen, ammonia total (as N) | WKLY MAX   | 92        | kg/d           | 82          | <=                    |
| 7/31/2020              | Chlorine, total residual       | DAILY MX   | 0.19      | mg/L           | 0.02        | <=                    |
| 10/31/2020             | Solids, total suspended        | WKLY MAX   | 1500      | kg/d           | 426         | <=                    |
| 10/31/2020             | Solids, total suspended        | WKLY MAX   | 76.9      | mg/L           | 45          | <=                    |
| 10/31/2020             | Solids, total suspended        | MO AVG     | 382       | kg/d           | 284         | <=                    |
| 10/31/2020             | Nitrogen, ammonia total (as N) | WKLY MAX   | 98        | kg/d           | 82          | <=                    |
| 10/31/2020             | E. coli, MTEC-MF               | WK GEOMN   | 490.571   | MPN/100mL      | 284         | <=                    |
| 11/30/2020             | Mercury, total low level       | MO AVG     | 2.71E-06  | mg/L           | 2.6E-06     | <=                    |
| 2/28/2021              | Solids, total suspended        | WKLY MAX   | 2360      | kg/d           | 426         | <=                    |
| 2/28/2021              | Solids, total suspended        | WKLY MAX   | 159       | mg/L           | 45          | <=                    |
| 2/28/2021              | Solids, total suspended        | MO AVG     | 44        | mg/L           | 30          | <=                    |
| 2/28/2021              | Solids, total suspended        | MO AVG     | 608       | kg/d           | 284         | <=                    |
| 2/28/2021              | Phosphorus, total (as P)       | WKLY MAX   | 25.4      | kg/d           | 14.2        | <=                    |

## ATTACHMENT B

### Sanitary Sewer Overflows

OH0023612: CITY OF VERMILION WPCF, VERMILION, OH 44089-1324

Monitoring Period Date Range: 02/14/2017 to 07/17/2021

| Date       | Station | Parameter           | Units     | Reported Value |
|------------|---------|---------------------|-----------|----------------|
| 7/17/2021  | 300     | Overflow Occurrence | No./Month | 1              |
| 6/8/2021   | 300     | Overflow Occurrence | No./Month | 2              |
| 6/8/2021   | 302     | Overflow Occurrence | No./Month | 2              |
| 6/8/2021   | 301     | Overflow Occurrence | No./Month | 1              |
| 5/11/2021  | 300     | Overflow Occurrence | No./Month | 1              |
| 3/1/2021   | 300     | Overflow Occurrence | No./Month | 1              |
| 12/5/2020  | 300     | Overflow Occurrence | No./Month | 1              |
| 11/24/2020 | 302     | Overflow Occurrence | No./Month | 1              |
| 10/22/2020 | 302     | Overflow Occurrence | No./Month | 1              |
| 10/21/2020 | 302     | Overflow Occurrence | No./Month | 1              |
| 9/7/2020   | 302     | Overflow Occurrence | No./Month | 1              |
| 8/31/2020  | 302     | Overflow Occurrence | No./Month | 1              |
| 8/28/2020  | 300     | Overflow Occurrence | No./Month | 1              |
| 6/11/2020  | 300     | Overflow Occurrence | No./Month | 1              |
| 5/16/2020  | 300     | Overflow Occurrence | No./Month | 4              |
| 5/16/2020  | 302     | Overflow Occurrence | No./Month | 4              |
| 5/15/2020  | 300     | Overflow Occurrence | No./Month | 5              |
| 5/15/2020  | 302     | Overflow Occurrence | No./Month | 5              |
| 3/23/2020  | 300     | Overflow Occurrence | No./Month | 1              |
| 8/22/2019  | 302     | Overflow Occurrence | No./Month | 1              |
| 6/23/2019  | 302     | Overflow Occurrence | No./Month | 1              |
| 6/22/2019  | 302     | Overflow Occurrence | No./Month | 1              |
| 5/3/2019   | 302     | Overflow Occurrence | No./Month | 1              |
| 5/2/2019   | 302     | Overflow Occurrence | No./Month | 1              |
| 2/8/2019   | 302     | Overflow Occurrence | No./Month | 1              |
| 2/7/2019   | 302     | Overflow Occurrence | No./Month | 1              |
| 11/2/2018  | 300     | Overflow Occurrence | No./Month | 1              |
| 11/2/2018  | 302     | Overflow Occurrence | No./Month | 1              |
| 11/1/2018  | 300     | Overflow Occurrence | No./Month | 1              |
| 11/1/2018  | 302     | Overflow Occurrence | No./Month | 1              |
| 7/6/2018   | 300     | Overflow Occurrence | No./Month | 1              |
| 7/5/2018   | 300     | Overflow Occurrence | No./Month | 1              |
| 3/1/2018   | 300     | Overflow Occurrence | No./Month | 2              |
| 3/1/2018   | 302     | Overflow Occurrence | No./Month | 2              |
| 11/18/2017 | 300     | Overflow Occurrence | No./Month | 2              |
| 11/18/2017 | 302     | Overflow Occurrence | No./Month | 3              |
| 11/5/2017  | 300     | Overflow Occurrence | No./Month | 3              |
| 11/5/2017  | 302     | Overflow Occurrence | No./Month | 2              |
| 5/5/2017   | 300     | Overflow Occurrence | No./Month | 2              |
| 5/5/2017   | 302     | Overflow Occurrence | No./Month | 2              |
| 4/5/2017   | 302     | Overflow Occurrence | No./Month | 2              |
| 2/14/2017  | 300     | Overflow Occurrence | No./Month | 1              |
| 2/14/2017  | 302     | Overflow Occurrence | No./Month | 1              |